



ATLANTA CINCINNATI COLUMBUS NEW YORK
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April 20, 2021

VIA ECF

Hon. Katharine H. Parker
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
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DATE FILED: 04/21/2021

APPLICATION GRANTED

Katharine H. Parker
Hon. Katharine H. Parker, U.S.M.J.

04/21/2021

Re: *Spectrum Dynamics Medical Limited v. General Electric Company, et al.*,
Case No.: 18-cv-11386 (VSB)

Dear Judge Parker:

On behalf of Defendant General Electric Company (“GE”), we write pursuant to Federal Rule of Civil Procedure 5.2(e), Your Honor’s Individual Rule of Practice III(d), and the parties’ Stipulated Confidentiality and Protective Order (the “Protective Order”) (Dkt. 156) to request leave to file with redactions and under seal the Letter Motion to Compel Plaintiff to Properly Review, Designate, and Produce Relevant Documents, and for Costs, pursuant to Rule 37 (the “Motion”) filed today.

The presumption of public access to judicial documents can be overcome if countervailing factors warrant confidentiality. *See Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 120 (2d Cir. 2006); *see also Nixon v. Warner Commc’n Inc.*, 435 U.S. 589, 598 (1978). Sealing of records may be justified to preserve “higher values,” including the need to protect an entity from competitive injury. *Lugosch*, 435 F.3d at 124; *see also Tropical Sails Corp. v. Yext, Inc.*, No. 14-cv-7582, 2016 U.S. Dist. LEXIS 49029, at *10-11 (S.D.N.Y. Apr. 12) (risk of “competitive injury is sufficiently serious to warrant protection” of proprietary business information). Consistent with this, courts routinely permit sealing and redaction of competitively sensitive proprietary business information. *See, e.g., Louis Vuitton Malletier S.A. v. Sunny Merch. Corp.*, 97 F. Supp. 3d 485, 511 (S.D.N.Y. 2015); *Encyclopedia Brown Prods., Ltd. v. Home Box Office, Inc.*, 26 F. Supp. 2d 606, 614 (S.D.N.Y. 1998); *see also Nixon*, 435 U.S. at 598 (recognizing need to seal information that might “harm a litigant’s competitive standing”).

Here, Defendants do not believe that the Motion contains any Highly Confidential information. However, the Motion describes and quotes from the letter Plaintiff filed on April 14, 2021 describing its document review process (the “Review Letter”) (Dkt. 233). Because Plaintiff designated the entire Review Letter as Highly Confidential, and out of an abundance of caution, Defendants seek leave to file their motion to compel under seal.

GE respectfully requests that the Court permit filing of the letter motion under seal.

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Very truly yours,

/s/ Marla R. Butler

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cc: All Counsel of Record via ECF